

## Message Text

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ACTION IO-14

INFO OCT-01 EUR-25 ISO-00 CIAE-00 COME-00 DODE-00 EB-11

FMC-04 INR-10 NSAE-00 RSC-01 CG-00 COA-02 DLOS-06

AID-20 CEQ-02 EPA-04 L-03 NSF-04 NSC-10 PM-07 SCI-06

SS-20 SPC-03 OIC-04 DOTE-00 AF-10 ARA-16 EA-11 NEA-10

JUSE-00 OMB-01 ACDA-19 PA-04 PRS-01 USIA-15 AEC-11

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R 181409Z OCT 73

FM AMEMBASSY LONDON

TO SECSTATE WASHDC 4905

INFO USMISSION USUN NEW YORK

C O N F I D E N T I A L SECTION 01 OF 03 LONDON 12106

E.O. 11652: GDS

TAGS: IMCO, PBOR, SENV

SUBJECT: IMCO MARINE POLLUTION CONFERENCE, INTERIM  
SUMMARY

1. SUMMARY. THIS CABLE SUMMARIZES ACTIONS OF CONFERENCE COMMITTEES THROUGH 17 OCTOBER. ARTICLES: US PROPOSAL TO EXCLUDE FIXED PLATFORMS NARROWLY DEFEATED. MILITARY EXEMPTION CLAUSE ADOPTED, AND MAJOR JURISDICTIONAL ISSUES RESOLVED. NO DECISION REACHED ON POWERS OF CONTRACTING STATES (ARTICLE 8). PORT STATE ENFORCEMENT NOW BEING STRENUOUSLY DEBATED. MARITIME STATES PREPARED TO SUPPORT COMPULSORY DISPUTE SETTLEMENT. ANNEX I: ACCEPTABLE DATES ADOPTED FOR "NEW SHIP" AND "MAJOR CONVERSION." TWO CATEGORIES OF OIL REJECTED AND MANDATORY SEGREGATED BALLAST ADOPTED FOR NEW TANKERS 70,000 DWT AND ABOVE. DOUBLE BOTTOM CONSTRUCTION REJECTED AS MEANS OF IMPLEMENTING SEGREGATED BALLAST. ANNEX II: ADOPTED DEFINITION OF "SPECIAL AREA" AND NEW CRITERIA FOR  
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DISCHARGE OF NOXIOUS SUBSTANCES IN SPECIAL AREAS. ADOP-

TED NEW CATEGORY D, "PRACTICALLY NON-TOXIC" NOXIOUS SUBSTANCES, AND REACHED COMPROMISE ON PROVISIONAL ASSESSMENT OF CARGO. US PROPOSAL TO EXCEPT FIXED PLATFORMS IN ANNEX II RECEIVED NO SUPPORT. END SUMMARY.

2. COMMITTEE I - ARTICLES. COMMITTEE IMMEDIATELY OPENED DETAILED DISCUSSION OF DRAFT ARTICLES WITHOUT DEBATE. PREAMBLE DEFERRED AND ARTICLE L ADOPTED WITH MINOR CHANGE. IN ARTICLE 2, US PROPOSAL TO EXCLUDE PLATFORMS FROM DEFINITION OF SHIP NARROWLY DEFEATED (US ATTEMPTED FOUR SEPARATE APPROACHES TO EXCLUDE PLATFORMS INCLUDING EXCLUSION OF SEABED EXPLORATION AND EXPLOITATION PLATFORMS, BUT NARROWLY FAILED.) WIDE LDC OPPOSITION TO EXCLUSION SURPRISING, AND US APPEALS TO PROTECT LOS CONFERENCE OPTIONS HAD LITTLE EFFECT. US ATTEMPTING EXCLUDE PLATFORMS FROM EACH ANNEX, BUT HAS LOST OVERWHELMINGLY IN COMMITTEE III. ARTICLE 2(4)(B)(II) ADOPTED WITHOUT CHANGE. REST OF ARTICLE 2 APPROVED WITH MINOR CHANGES INCLUDING ACCEPTANCE FOOTNOTE 5. ACCORDINGLY, DISCHARGES DIRECTLY ARISING FROM SEABED EXPLORATION AND EXPLOITATION ACTIVITIES NOT RPT NOT COVERED BY CONVENTION. ARTICLE 3(L) APPROVED WITH MINOR CHANGES AND DEFERRAL ON QUESTION OF TERRITORIES. NEW PARAGRAPH APPROVED TO AVOID CONFLICT OF AUTHORITY BETWEEN FLAG STATE AND COASTAL STATE IF PLATFORMS RETAINED IN CONVENTION.

3. ADOPTED MILITARY EXEMPTION CLAUSE AFTER CONSULTATIONS AS AMENDMENT TO ARTICLE 3(2) OF 5TH DRAFT. ADOPTED AMENDMENT READS: "THE PRESENT CONVENTION SHALL NOT APPLY TO ANY WARSHIP, NAVAL AUXILIARY OR OTHER SHIP OWNED OR OPERATED BY A STATE AND USED FOR THE TIME BEING, ONLY ON GOVERNMENT NON-COMMERCIAL SERVICE. HOWEVER, EACH CONTRACTING STATE SHALL ENSURE BY THE ADOPTION OF APPROPRIATE MEASURES NOT IMPAIRING THE OPERATIONS OR OPERATIONAL CAPABILITIES OF SUCH SHIPS OWNED OR OPERATED BY IT THAT SUCH SHIPS ACT IN A MANNER CONSISTENT, SO FAR AS IS REASONABLE AND PRACTICABLE, WITH THE PRESENT CONVENTION." AMENDMENT ADOPTED BY A VOTE OF 22 (US) ?OR, 2 AGAINST, AND 25 ABSTENTIONS.

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4. DISCUSSION OF ARTICLES 4, 8, AND 9 BEGAN IN INFORMAL CONSULTATIONS AT OPENING OF CONFERENCE WHICH CONTINUED INTENSIVELY THROUGH OCTOBER L7, OFTEN WITH PARALLEL DISCUSSIONS IN COMMITTEE I. THIS HAS BEEN MOST DIFFICULT LOS-RELATED PROBLEM, WITH STRONG COASTAL STATE-MARITIME STATE POLARIZATIONS AS IN SEABED COMMITTEE. OUR ASSESSMENT IS ENTIRE CONFERENCE WAS IN SOME DANGER, AND THAT

MEXICAN LEADERSHIP, RELATIVE CANADIAN RESTRAINT, AND  
US MODERATING INFLUENCE PLAYED KEY PART IN RESOLVING  
ISSUE. FOLLOWING PACKAGE FINALLY APPROVED: ALTERNATIVE  
II OF ARTICLE 4 WITH CHANGE OF TERM "TERRITORIAL SEAS"  
TO "JURISDICTION" IN PARAGRAPH (2) AND MINOR REWORDING  
AND REWRITE OF PARAGRAPH (4) WITHOUT SUBSTANTIVE CHANGE;  
ARTICLE 9 WITHOUT CHANGE, EXCEPT FOR NEW PARAGRAPH (3)  
DRAFTED BY MEXICO TO ACCOMMODATE STRONG DESIRE OF  
EUROPEANS AND JAPAN, AS FOLLOWS: "THE TERM JURISDICTION

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IN THE PRESENT CONVENTION SHALL BE CONSTRUED IN THE LIGHT  
OF INTERNATIONAL LAW IN FORCE AT THE TIME OF APPLICATION  
OR INTERPRETATION OF THE PRESENT CONVENTION." MINOR  
DRAFTING PROBLEMS REMAIN ON ARTICLE 9(3).

5. NO DECISION REACHED ON ARTICLE 8. "MARITIME STATES"  
GROUP, EXCEPT US, STRONGLY FAVORS ARTICLE 8(2), BUT MOST  
ARE WILLING TO DELETE ALL OF ARTICLE 8. "COASTAL STATES"

GROUP HAS PROPOSED ARTICLE LL OF L954 IMCO CONVENTION AS SUBSTITUTE FOR ALL OF ARTICLE 8 (EFFECTIVELY A VAGUE VERSION OF 8(L)). MEXICO WILLING TO DELETE ALL OF ARTICLE 8, BUT CANADA IS STRONGLY LOBBYING AGAINST THIS. SOME "COASTAL STATE" GROUP MEMBERS MAY IN FACT BE PREPARED TO SUPPORT 8(2) (E.G., SOME LATINS, INDIA), AND IT REMAINS UNCLEAR WHERE THE MAJORITY LIES.

6. DISCUSSION OF ARTICLES 5 AND 6 INDICATES MARITIME STATE PUSH AGAINST MANDATORY DENIAL OF PORT ENTRY TO PARTY AND PARTICULARLY TO NON-PARTY VESSELS, AND CONFIDENTIAL

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SIDERABLE HESITATION ON MANDATORY PORT STATE INSPECTION. OPPOSITION TO PORT STATE JURISDICTION TO ENFORCE UNIVERSAL (OR EVEN "HIGH SEAS") VIOLATIONS VERY STRONG AMONG MOST MARITIME STATES, AND SOME LDCS (E.G., ARGENTINA, INDIA, NIGERIA). USSR INDICATED PUBLICLY AND PRIVATELY WILL NOT SIGN IF ANY PORT STATE ARTICLE ADOPTED. UK, FRANCE, SPAIN AND NORWAY VERY STRONG IN OPPOSITION, ARGUING THIS SHOULD BE HANDLED AT LOS. US, AUSTRALIA, AND CANADA ARE SOLE STRONG SUPPORTERS, WITH SOME HELP FROM DENMARK, SWEDEN, IRAN AND SOME OTHERS. VOTE EXPECTED SHORTLY ON VERY WATERED-DOWN "COMPROMISE" TEXT, WHICH DOES INCLUDE CONCEPT, BUT WE ARE NOT VERY OPTIMISTIC.

7. MARITIME STATES WIDELY PREPARED TO SUPPORT COMPULSORY DISPUTE SETTLEMENT. WHILE MANY FAVOR INTERNATIONAL COURT OF JUSTICE, ALL SEEM PREPARED TO ACCEPT ARBITRATION. SOVIETS PREPARED TO LOW-KEY THEIR OPPOSITION (AND PRESUMABLY "LOSE") IF THERE IS NO ARTICLE ON RESERVATIONS IN THE TREATY. WHILE US DELEGATION HAS USED A NUMBER OF OCCASIONS TO LINK COMPULSORY DISPUTE SETTLEMENT TO OTHER ISSUES IN DEBATE, THERE HAS BEEN NO DEBATE ON COMPULSORY DISPUTE SETTLEMENT. WE WILL INCREASE PRESSURE ON ISSUE ONCE PORT STATE VOTE IS HELD.

8. COMMITTEE II. WORK THUS FAR DEDICATED TO CONSIDERATION OF ANNEX I. ANNEX IV, ANNEX V, AND RESOLUTIONS WILL BE ADDRESSED NEXT WEEK. ACCOUNT OF SIGNIFICANT COMMITTEE ACTIONS FOLLOWS, NUMBERS INDICATING REGULATIONS AND PARAGRAPHS ACCORDING TO FINAL DRAFT CONVENTION:

L(L) PRESENT DEFINITION WAS ADOPTED. LIST IN APPENDIX I WILL BE CONSIDERED AFTER REGULATIONS.

1(5) ADOPTED DEFINITION OF "NEW SHIPS" CONTAINING CAL-  
ENDAR DATES, CONTRACT DATE L JANUARY L976, DELIVERY  
DATE L JANUARY L980. CONSISTENT DATES ADOPTED  
FOR "MAJOR CONVERSION."

1(8) "INTERNATIONAL VOYAGE" WAS DELETED AS RESULT OF

AN AMENDMENT OF LANGUAGE IN REGULATION 5, THE  
SUBSTANCE OF WHICH IS UNDECIDED.

1(9) "NEAREST LAND" IN CONNECTION WITH DISCHARGE RE-  
QUIREMENTS WAS REFERRED TO COMMITTEE I IN VIEW  
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LOS IMPLICATIONS.

- 9(L) TWO CATEGORY CONCEPT ERSTEHT ANQ NOHPERSISTENT  
OILS) REJECTED BY VOTE 23 TO 19. FOLLOWING CRI-  
TERIA WERE ADOPTED: (1)(A)(II) - 50 MILES;  
(1)(A)(IV) - 60 LITERS/MILE; (1)(A)(V) NEW TANK-  
ERS - 1/30000; EXISTING TANKERS - 1/15000; NO  
TONNAGE CRITERIA; (1)(B)(II) - 100 PARTS OIL;  
(1)(B)(III) - 60 LITERS/MILE; (1)(B)(IV) - 12  
NAUTICAL MILES.
- 9(3) DISCUSSED EVIDENTIARY RULE BUT DEFERRED DECISION  
UNTIL NEW FORMULATION TAKING CONFLICTING VIEWS  
INTO ACCOUNT CAN BE WORKED OUT THROUGH INFORMAL  
DISCUSSIONS.
- 11 DELETED REGULATION IN FAVOR OR TRANSFERRING PARA-  
GRAPHS AS APPLICABLE TO REGULATIONS 13, 15 AND 20.
- 12 DISCUSSIONS IN PROGRESS. ADDED RED SEA AND  
PERSIAN GULF TO 12(1)(A).
- 13 ADOPTED MANDATORY SEGREGATED BALLAST REQUIREMENT  
FOR NEW TANKERS 70000 DWT AND ABOVE. REJECTED  
MANDATORY DOUBLE BOTTOM CONSTRUCTION AS MEANS OF  
IMPLEMENTING SEGREGATED BALLAST CONCEPT. DETER-  
MINATION OF SEVERAL RELATED TECHNICAL CRITERIA  
PENDS.

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1(7), 3, 10 AMENDED LANGUAGE TO TIGHTEN APPLICABILITY  
AND ENHANCE ENFORCEMENT.

9. COMMITTEE III. ANNEXES II, III AND ASSOCIATED RESOLU-  
TIONS. THERE IS GENERAL RELUCTANCE AMONG MAJORITY OF  
DELEGATIONS TO MAKE SUBSTANTIVE CHANGES IN FINAL DRAFT  
TEXT OF ANNEX II. GENERAL DEBATE HAS CONCLUDED, AND  
VOTING IS NOW PROCEEDING THROUGH REGULATIONS. FOLLOWING  
SIGNIFICANT CHANGES ADOPTED IN DRAFT TEXT:

REGULATION 1. ADOPTED IMPROVED DEFINITION OF  
"SPECIAL AREA," INCLUDING LIST OF ACCEPTED AREAS.  
SPECIAL AREA MEANS A SEA AREA WHERE FOR RECOGNIZED TECH-  
NICAL REASONS IN RELATION TO ITS OCEANOGRAPHIC AND  
ECOLOGICAL CONDITION AND TO ITS PECULIAR TRANSPORTATION  
TRAFFIC THE ADOPTION OF SPECIAL MANDATORY METHODS FOR  
THE PREVENTION OF SEA POLLUTION BY NOXIOUS LIQUID SUB-  
STANCES IN BULK IS REQUIRED. COMMITTEE ACCEPTED BLACK  
SEA AND BALTIC SEA AREAS.

REGULATION 3. NEW CATEGORY D ADOPTED, COMPRISING  
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"PRACTICALLY NON-TOXIC" NOXIOUS SUBSTANCES. LIST WAS  
REASONABLE AND ACCEPTABLE TO US. COMPROMISE REACHED

ON ISSUE OF CONSULTATION AMONG  
GOVERNMENTS INVOLVED (LOADING, FLAG, AND RECEIVING  
STATES) REGARDING PROVISIONAL ASSESSMENT OF CARGO.  
UNTIL FULL AGREEMENT REACHED, SUBSTANCE TO BE CARRIED  
UNDER MOST SEVERE CONDITIONS PROPOSED; CONTRAC-  
TING GOVERNMENTS HAVE PERIOD OF 90 DAYS TO COMMENT.

REGULATION 5. DISCHARGE CRITERIA FOR CATEGORY  
D SUBSTANCES REQUIRE DILUTION OF 10 PARTS WASHWATER TO  
1 PART SUBSTANCE AND DISCHARGE AS FAR AS PRACTICABLE  
FROM LAND WHILE SHIP IS UNDERWAY, BUT NOT LESS THAN

2 MILES.

REGULATION 5A. NEW CRITERIA ADOPTED FOR "DISCHARGE OF NOXIOUS SUBSTANCES WITHIN SPECIAL AREAS." TANK WASHING RESIDUES CONTAINING CATEGORY A OR B SUBSTANCES MUST BE DISCHARGED TO RECEPTION FACILITY UNTIL CONCENTRATION IN EFFLUENT IS AT OR BELOW RESIDUAL CONCENTRATION PRESCRIBED IN APPENDIX II AND TANK IS EMPTY. DISCHARGE CRITERIA FOR CATEGORY C SAME AS CRITERIA FOR CATEGORY B IN REGULATION 5.

REGULATION 6. US PROPOSAL TO EXCEPT FIXED PLATFORMS FROM PROVISIONS OF REGULATION 5 AND 5A RECEIVED NO SUPPORT.

REGULATION 7. US PROPOSAL TO REQUIRE ADEQUATE RECEPTION FACILITIES AS CRITERION FOR ESTABLISHMENT OF SPECIAL AREA WAS REJECTED ON TECHNICAL GROUNDS AND REFERRED TO COMMITTEE ON ARTICLES.

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## Message Attributes

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**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** WATER POLLUTION, MEETINGS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 18 OCT 1973  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** worrelsw  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
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**Disposition History:** n/a  
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**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** IMCO MARINE POLLUTION CONFERENCE, INTERIM SUMMARY  
**TAGS:** PBOR, SENV, IMCO  
**To:** STATE  
**Type:** TE  
**Markings:** Declassified/Released US Department of State EO Systematic Review 30 JUN 2005